

# CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 353

January 26, 1973

INTEREST: IN GENERAL

Syllabus:

Amounts that are identical in all relevant respects to those considered in internal Revenue Ruling 72-315 are interest for the purposes of all provisions of the bank and corporation tax law.

Advice has been requested concerning the applicability of Revenue Ruling 72-315 beyond the deduction statute in the Bank and Corporation Tax Law.

Revenue Ruling 72-315 notes that it is not necessary for parties to a financial transaction to label a payment for the use of money as interest; that facts and circumstances control the nature of a payment made in connection with a transaction, not the terminology used; that "[O]ne of the factors distinguishing a 'service charge' from interest is that a 'service charge' is a fixed charge having no relationship to the amount borrowed or the time given to pay whereas interest is based on the amount deferred and the time of deferral [emphasis added]," and concludes therefore that under the facts in the revenue ruling the amount charged to the customer's revolving charge account is solely for the privilege of deferring payment and is interest in its entirety.

This department has determined that Revenue Ruling 72-315 is correct and is to be followed for deduction statute purposes. If a so-called service charge is interest in one part of the code, it should have the same meaning in other parts of the code. General Amer. Life Ins. Co., 25 T.C. 1265 (1967). The same rules should govern in determining whether interest constitutes income to the seller as are used to determine whether interest is deductible by the purchaser. Appeal of Sears, Roebuck and Co., Cal. St. Bd. of Equal., June 4, 1970. It follows that amounts, however denominated, which are identical in all material respects to those considered in the revenue ruling are interest for the purposes of the Bank and Corporation Tax Law.

In view of the fact that Revenue Ruling 72-315 is declaratory of existing law, this Legal Ruling applies to all open years.